

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**IN THE MATTER OF:**

Westinghouse Sharon Site  
Sharon, Pennsylvania

Westinghouse Electric Corporation

Respondent

Proceeding Under Section 106(a)  
of the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980, as amended  
by the Superfund Amendments and  
Reauthorization Act of 1986,  
42 U.S.C. § 9606(a)

**Docket No. III-94-011-DC**

I HEREBY CERTIFY THAT THE WITHIN  
IS A TRUE AND CORRECT COPY OF THE  
ORIGINAL UAD FILED  
IN THIS MATTER.

ATTORNEY FOR EPA

**ADMINISTRATIVE ORDER  
FOR REMOVAL RESPONSE ACTION**

Having determined the necessity for implementation of response activities at or relating to the Westinghouse Sharon Site in Sharon, Mercer County, Pennsylvania, the United States Environmental Protection Agency ("EPA"), hereby Orders as follows:

**I. JURISDICTION AND GENERAL PROVISIONS**

1.1 This Order is issued pursuant to the authority vested in the President of the United States by Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. § 9606; delegated to the EPA Administrator by Executive Order No. 12,580, 52 Fed. Reg. 2923 (January 29, 1987); and further delegated to the Regional Administrators of EPA. This Order pertains to property located at 369 Sharpsville Avenue in Sharon, Mercer County, Pennsylvania. The property will hereinafter be referred to as the "Westinghouse Sharon Site" or "the Site", and is further described in paragraphs 3.3, 3.4 and 3.5, below.

1.2 The Respondent shall undertake all actions required by, and comply with all requirements of this Order including any

AR100013

modifications hereto ("the Work").

1.3 The Work shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 C.F.R. Part 300; and CERCLA.

1.4 This Order is issued to the above captioned Respondent.

## **II. STATEMENT OF PURPOSE**

2.1 In issuing this Order, the objective of EPA is to protect the public health and welfare and the environment by ensuring that a proper removal response action, as defined in Section 101(23) of CERCLA, 42 U.S.C. § 9601(23), is conducted to abate, mitigate and/or eliminate the release or threat of release of hazardous substances at the Site (as hereinafter described). This removal action is intended to reduce the volume to the maximum extent feasible, and thus the mobility of any remaining contaminated oil that forms a separate phase on groundwater at the Site. The removal action will reduce the threat of offsite migration of the contaminated-oil to the near-by Shenango River. The contaminants in the oil include: dioxins, chlorinated-dibenzofurans, polychlorinated biphenyls (PCBs), and 1,2,4-trichlorobenzene. This action will not interfere with future ground water response actions that may be implemented at the Site.

## **III. FINDINGS OF FACT**

3.1 The Westinghouse Electric Corporation ("Westinghouse") is a Pennsylvania Corporation with its principal office located at the Westinghouse Building, Gateway Center, Pittsburgh, Pennsylvania.

3.2 Westinghouse owned and operated the Site on which it manufactured, repaired, and shipped electrical transformers and dielectric components between 1922 to 1985. In recent years, Westinghouse has sold portions of the Site. Between 1936 and 1976, Westinghouse utilized polychlorinated biphenyls ("PCBs"), in concentrations greater than 500 parts per million ("ppm"), for use as a dielectric fluid in the transformers manufactured at the Site. In 1985, Westinghouse permanently shut down manufacturing operations at the Site.

3.3 The Site is located at 369 Sharpsville Avenue in Sharon, Mercer County, Pennsylvania. The Site is located in a predominantly industrial area, 1000 feet east of the Shenango River. The Site is composed of approximately 50 acres and ranges

AR100014

in width from about 200 to 800 feet and is nearly a mile long as depicted in Attachment 1 of this Order. The Site is bounded on the north by the City of Sharpsville, on the east by Sharpsville Avenue, on the south by the City of Sharon, and on the west by Conrail tracks and the Armco Steel Corporation facility.

3.4 The Site is divided into three areas: the North, Middle, and South Sectors. The contamination associated with this removal response action is subsurface and is mainly located in the western perimeter of the Middle Sector of the Site.

3.5 The Site is composed of numerous buildings that housed operations which generated wastewater. The wastewater from the operations was treated and ultimately discharged to the Shenango River from a number of permitted outfalls and municipal storm sewers.

3.6 In April 1985, the Pennsylvania Department of Environmental Resources ("PADER") issued an Administrative Order ("Order") to Westinghouse under the Commonwealth of Pennsylvania's Clean Streams Law, 35 P.S. §§ 691.1 et seq., Solid Waste Management Act, 35 P.S. §§ 6018.101 et seq., and Administrative Code, 71 P.S. § 510-17A, to undertake a subsurface investigation to determine the horizontal and vertical extent of groundwater and soil contamination in certain areas of the plant, and for Westinghouse to propose plan and schedule for the cleanup and containment of contaminated soils and groundwater.

3.7 The Subsurface Investigation Study ("1986 Study") was submitted to PADER by Westinghouse in or about August 1986. The study revealed the presence of PCBs in soil borings, in pits where storage tanks were located, in groundwater and in the "moat area" (an area situated between buildings at the southwest corner of the Site).

3.8 The 1986 Study indicated that ground water underlying the Site and Site soils was contaminated with PCBs.

3.9 The Westinghouse Sharon Site was proposed for inclusion on the National Priorities List pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, in June 1988 (53 Fed. Reg. 23988 (June 24, 1988)). The Site was later listed on the NPL in August 1990 (59 Fed. Reg. 35502 (August 30, 1990)).

3.10 On or about September 21, 1988, Westinghouse entered into an Order and Agreement ("COA") with PADER to conduct a Remedial Investigation/Feasibility Study ("RI/FS") under the Commonwealth's Clean Streams Law and Solid Waste Management Act to study the groundwater and surface contamination at the Site. The ground water and soil analytical data contained in the 1986 Study served as the basis for the COA.

3.11 During the implementation of the 1986 Study, accumulations of a Light Non-Aqueous Phase Liquid ("LNAPL") in a free-floating oil phase were encountered in on-site shallow wells. The LNAPL was later more fully characterized during the implementation of the RI. The estimated amount of oil forming the LNAPL ranges from 5,000 to 10,000 gallons. The contaminants in the oil primarily include: 1,2,4-trichlorobenzene, dioxins and chlorinated-dibenzofurans, Aroclor 1242, Aroclor 1254, and Aroclor 1260. (Aroclor is a trade name for a mixture of certain isomers for homologues of PCBs of a certain ratio of chlorination. PCBs include more than 200 related compounds. Aroclors are designated by a numbering system that indicates the degree of chlorination.)

3.12 The LNAPL is located in the ground water of the western portion of the Middle Sector of the Site. The LNAPL has a potential migration pathway to the Shenango River. The Shenango River is 1,000 feet at its closest approach to the Middle Sector and is hydraulically downgradient from the Middle Sector of the Site. If the contaminated floating oil were to migrate from the subsurface, the Shenango River could potentially be its point of discharge.

3.13 The Shenango Valley Water Company provides drinking water to an estimated 75,000 people in the area surrounding the City of Sharon from the Shenango River. The intake to the water system's supply is located approximately 1600 feet downstream from the Site on the Shenango River. The river is hydraulically downgradient from the source of contamination. Previous sampling during the Site Investigation ("SI") conducted by EPA, and the Westinghouse-conducted Remedial Investigation ("RI"), has revealed PCBs in the sediments between the Site and the Shenango Valley Water Company's intake, and in fish in the Shenango River, which may likely be attributed to the Site.

3.14 PCBs are complex mixtures of the products of the chlorination of biphenyl. The mixtures contain isomers of chlorobiphenyls with different chlorine content. PCBs may contain other chlorinated mixtures, e.g., chlorinated naphthalenes and chlorinated dibenzofurans. PCBs are stable and nonflammable. PCBs have low vapor pressures, low solubilities, and high organic carbon partition coefficients ( $K_{oc}$ ). Vapor pressure and water solubility decrease with increasing chlorination and  $K_{oc}$  increases with increasing chlorination. PCBs are persistent in the environment and bioaccumulate in food chains, with possible adverse effects on animals and man. Systemic toxic effects are dependent upon the degree of chlorination of the biphenyls. Health effects associated with PCB exposure to humans include skin and eye irritation, chloracne (a persistent and severe form of acne), and an increase in serum liver enzyme levels. Numerous health effects have been reported

in studies with laboratory animals. These include effects on the liver, stomach, kidneys, reproductive system, skin, thyroid, and blood. EPA has classified PCBs as probable human carcinogens (Group B2) based on sufficient evidence in laboratory animals and insufficient evidence in humans. The EPA has not developed a reference dose (RfD) for PCBs. The RfD is defined as the daily intake that would not be anticipated to cause non-cancer adverse effects in humans. An oral cancer slope factor (SF) of 7.7 (mg.kg/day)<sup>-1</sup> is currently used to assess cancer risks from exposure to PCBs. The EPA has developed an RfD for Aroclor 1016.

3.15 Dioxins and furans are each a mixture of structurally similar chemicals, with 2,3,7,8-tetrachlorodibenzo-para-dioxin (TCDD) being the most studied one. Dioxin is persistent in the environment, and is known to bioaccumulate in aquatic organisms. Dioxins and furans have low vapor pressures, low water solubilities, and a high organic carbon partition coefficient. In general, they adsorb to soil or sediment, and do move easily with water. Under some conditions, dioxins and furans can volatilize. The toxicity of dioxins varies according to the number and position of chlorine atoms attached to the aromatic ring, with the 2,3,7,8 conformation of chlorine substitutions being the most toxic. Long term exposure of humans to dioxin and/or furans has led to blackening of the nails, chloracne, skin eruptions, liver effects, blood disorders, neurotoxicity, and swelling of the eyes. Numerous effects have been reported in laboratory animals, including birth defects and fetal mortality, liver effects, edema, hemorrhage, and suppressed thymic activity and immune cell function. The current databases indicate that humans are less susceptible to the adverse effects of dioxins/furans than are laboratory animals. TCDD is classified as a probable human carcinogen (Group B2). However, experimental data suggest that TCDD may act more as a promoter than an initiator of cancer; therefore USEPA's traditional approach to driving SFs may not be appropriate. Nevertheless, the EPA uses a SF of  $1.5 \times 10^5$  (mg/kg/day)<sup>-1</sup>, and toxicity equivalence factors (TEFs) have been derived as a means of estimating the carcinogenicity of other dioxins and furans using TCDD as the baseline. Studies indicate that, although congeners with chlorine atoms in the 2,3,7 and 8 positions are most important toxicologically, other congeners are also capable of causing toxic effects. Toxicity decreases with increased chlorination. The current EPA TEF approach is extremely conservative, adopting TCDD toxicity data and assuming that the other congeners demonstrate the same chronic effects.

3.16 Trichlorobenzene ("TCB") in high doses is embryotoxic to the offspring of exposed rats. Dermal applications of TCB increased the incidence of amyloidosis in a number of organs in mice and consequently shortened the animals' life-spans. Inhalation exposure to trichlorobenzene had minor effects on the

AR100017

liver and kidneys in several species of experimental animals; in a study in mice, it also damaged the bone marrow.

3.17 Polychlorinated biphenyls, trichlorobenzene and dioxins are listed as hazardous substances at 40 C.F.R. § 302.4.

3.18 Based on the information described above, on December 31, 1992, the Regional Administrator determined that a threat to public health, welfare and/or the environment exists due to the threatened release of hazardous substances from the Site, and authorized funds for a removal action.

#### IV. CONCLUSIONS OF LAW

4.1 The Westinghouse Sharon Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4.2 The Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

4.3 PCBs, trichlorobenzene, and dioxin are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), because they are listed at 40 C.F.R. § 302.4.

4.4 "Hazardous Substances", as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been disposed of at the Westinghouse Sharon Site and are currently present there.

4.5 The presence of hazardous substances at the Site and the past, present, and/or potential migration of hazardous substances from the Site constitutes an actual and/or threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

4.6 (a) Respondent is an "owner or operator of a vessel or a facility" (the Site) within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

(b) Respondent is a "person who at the time of disposal of any hazardous substances owned or operated any facility (the Site) at which such hazardous substances were disposed of" within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

4.7 EPA has determined that the Respondent is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

## **V. DETERMINATIONS**

Based on the Findings of Fact and Conclusions of Law set forth above, and the Administrative Record supporting this Order, EPA has determined that:

5.1 The actual and/or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

5.2 The Work must be implemented immediately to protect the public health and welfare and the environment.

5.3 Because there is a threat or potential threat to public health or welfare or the environment, a removal action is appropriate to abate, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous substances at or from the Site.

5.4 This removal action will to the extent practicable be consistent with future ground water remedial activities contemplated for the Site and will serve to complement and enhance these future ground water response actions.

## **VI. PARTIES BOUND**

6.1 This Order shall apply to and be binding upon Respondent and its agents, successors, and assigns. Neither a change in ownership or corporate or partnership status of the Respondent, nor a change in ownership or control of the Site shall in any way alter Respondent's responsibilities under this Order.

6.2 No change in ownership of any property covered by this Order shall in any way alter, diminish, or otherwise affect Respondent's obligations and responsibilities under this Order.

6.3 In the event of any change in ownership or control of the Site, Respondent shall notify EPA in writing at least thirty (30) calendar days in advance of such change and shall provide a copy of this Order to the transferee in interest of the Site prior to any agreement for transfer.

6.4 In the event that Respondent files for or is placed into bankruptcy, Respondent shall notify EPA within three (3) days of such event.

6.5 The Respondent shall provide a copy of this Order to all contractors, subcontractors, supervisory personnel, laboratories

and consultants retained by Respondent to conduct any portion of the Work to be performed by Respondent pursuant to this Order. Respondent shall require in any and all contracts related to this Site that the Work that is the subject of such contract be performed within the time and in the manner set forth in this Order.

#### **VII. NOTICE TO THE STATE**

7.1 Notice of issuance of this Order has been given to the Commonwealth of Pennsylvania, pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

#### **VIII. RESPONSE ACTION PLAN DEVELOPMENT AND IMPLEMENTATION**

8.1 Respondent shall commence and complete performance of the following response action within the time periods specified herein.

8.2 Within five (5) business days of the effective date of this Order, Respondent shall notify EPA in writing of the identity and qualifications of the contractor, subcontractor, supervisory personnel, and other persons who will be primarily responsible for developing the Response Action Plan ("RAP") required in this Section. Respondent shall further notify EPA in writing of the identity and qualifications of all contractors, subcontractors, supervisory personnel, and other persons selected by Respondent who will conduct all or any portion of the response action no less than fourteen (14) calendar days prior to commencement of the response action to be performed by such persons. Respondent shall ensure that all contractors, subcontractors, supervisory personnel and/or other persons retained to perform the response action shall meet the applicable Occupational Safety and Health Administration ("OSHA") requirements as defined in 29 C.F.R. § 1910.120. The Respondent's selection of all contractors, subcontractors, supervisory personnel, and other persons who will perform the response action; the Respondent's Project Coordinator designated pursuant to Section IX; and any replacements to any such persons are subject to disapproval by EPA at any time. In the event of any such disapproval by EPA, Respondent shall notify EPA within five (5) calendar days of receipt of such EPA disapproval of the person(s) who will replace the one(s) who selections were disapproved by EPA. If a person's selection is disapproved by EPA, they shall not perform such specified response action.



**8.3 Respondent shall accomplish the following items:**

- a. Provide site security, sufficient to preclude access by persons not conducting or overseeing the response action;
- b. Provide fire protection appropriate to the conditions at the Site;
- c. Develop and submit to EPA for approval a Pilot Study to determine the most effective means of extracting the floating PCB-contaminated oil which form the LNAPL on groundwater at the Middle Sector at the Site ("Middle Sector LNAPL"). The Pilot Study shall consist of, at a minimum, skimming the oil, in combination with a vacuum, if determined appropriate, to recover the LNAPL in wells that Respondent has installed previously;
- d. Implement the approved Pilot Study identified in paragraph 8.3(c), above;
- e. Submit a Pilot Study Report ("PSR") to EPA for approval that documents the performance and results of the Pilot Study. The PSR shall detail the performance and results of the Pilot Study, and shall include details of the specific LNAPL extraction equipment, production technique(s) and periods of operation. The Respondent shall also propose in the PSR a technique including operational parameters and equipment specifications for long-term extraction of the Middle Sector LNAPL ("extraction technique");
- f. Submit a plan to EPA for approval for the implementation of the extraction technique approved by EPA and detailed in the PSR;
- g. Extract the Middle Sector LNAPL by implementing the approved extraction technique until EPA determines in writing that the oil extraction is no longer practicable. EPA's determination to terminate the extraction technique will be based upon factors including the groundwater monitoring study described in 8.3(k), below, and/or the implementation of a Record of Decision that addresses the groundwater contamination subject to this Order;
- h. Remove and properly dispose of all LNAPL recovered during the action described in this paragraph 8.3. If appropriate, the Respondent shall containerize and transport the recovered LNAPL to an offsite facility authorized to treat, store and dispose of wastes

AR100021

containing PCBs and hazardous wastes;

- i. Treat and/or remove and properly dispose of any incidental contaminated soil and miscellaneous wastes (e.g., drill cuttings and disposable equipment, air filters) resulting from the Work. If appropriate, Respondent shall containerize and transport these wastes to an offsite facility authorized to treat, store and dispose of wastes containing PCBs and hazardous wastes;
- j. Treat and/or remove and properly dispose of contaminated water extracted during the Work in accordance with promulgated requirements and standards;
- k. Submit to EPA for approval a groundwater monitoring, sampling and analysis program ("GMSAP") that shall provide for the monitoring of the effectiveness of the extraction technique by characterizing the quantity and chemical composition of the LNAPL. The GMSAP may incorporate groundwater data gathered during the on-going Remedial Investigation at the Site;
- l. Implement the EPA-approved GMSAP;
- m. Provide Site specific health and safety measures, including preparation and implementation of a Health and Safety Plan ("HASP"), for Site activities required by subparagraphs (a) through (l) of paragraph 8.3, above, to protect the health and safety of workers, other personnel and the public from the hazardous substances and work-related health and safety hazards during performance of the response action specified herein. The HASP shall, as appropriate, provide for proper decontamination of personnel and equipment, monitoring and control of off-site migration of hazardous substances from the Site and protection of public health from overexposure to hazardous substances during the conduct of activities at the Site pursuant to this Order. Applicable sections of the HASP shall be at least as stringent as the Occupational Safety and Health Administration and EPA requirements including, but not limited to 29 C.F.R. § 1910.120;
- n. Obtain a Hazardous Waste Generator and Transporter Identification Number;
- o. Develop an expeditious schedule for implementation of the RAP;

8.4 Within twenty-five (25) business days of the effective date

AR100022

of this Order, Respondent shall submit to EPA for approval a RAP detailing the response actions to be implemented for the items specified in paragraph 8.3, above. The RAP shall include, among other things, a schedule for expeditious performance of such response actions. To the extent that information concerning the details of a particular item does not yet exist so that it can be described in the RAP, the RAP shall set forth an expeditious schedule and plan for submittal of RAP supplement(s) to EPA for approval, that fully details such items. All references to the review, approval and enforcement of the RAP shall also be applicable to any RAP supplement(s). The RAP shall include, among other things, a schedule for the expeditious performance of response actions required by this Order. The RAP shall be consistent with the NCP and shall be subject to approval by EPA according to the provisions of paragraphs 8.5 and 8.9, below.

8.5 EPA will review the RAP and notify the Respondent of EPA's approval or disapproval of the RAP. In the event of disapproval, EPA will specify the deficiencies in writing. The Respondent shall respond to and correct the deficiencies identified by EPA and resubmit the RAP to EPA within ten (10) business days of receipt of EPA disapproval or such longer time as may be specified by EPA in its discretion. Approval, disapproval and/or modification by EPA of the subsequent RAP submission shall be according to the provisions of Paragraph 8.9 below. Approval of the RAP shall not limit EPA's authority under the terms of this Order to require Respondent to conduct activities under this Order to accomplish the work outlined in paragraph 8.3 of this Order.

8.6 Within five (5) business days of receipt from EPA of written approval to proceed with implementation of the EPA-approved RAP ("written approval to proceed"), the Respondent shall commence implementation of such RAP and complete implementation in accordance with the RAP and the schedule therein. In the event EPA determines that any portion of the response action performed is deficient, and EPA requires Respondent to correct or re-perform such response action pursuant to this Order, Respondent shall correct or re-perform such response action in accordance with the requirements and schedule provided by EPA.

8.7 Beginning fourteen (14) calendar days subsequent to the date of receipt of EPA approval of the RAP and every fourteen (14) calendar days thereafter or longer as may be determined by the EPA Project Coordinator designated pursuant to Section IX, and until EPA advises Respondent that the Work is complete, the Respondent shall provide EPA with a progress report for each preceding 7 day period or if applicable, the period specified in writing by the EPA Project Coordinator. The progress reports shall include, at a minimum: 1) a description of the response action completed and the actions that have been taken toward

AR100023

achieving compliance with this Order, 2) a description of all data anticipated and activities scheduled for the next 14 calendar days or, if applicable, the period specified in writing by the EPA Project Coordinator; 3) a description of any problems encountered or anticipated; 4) any actions taken to prevent or mitigate such problems; 5) a schedule for completion of such actions; 6) copies of all analytical data received during the reporting period; and 7) all modifications to the response action, RAP and schedule made in accordance with Section XV of this Order during the reporting period.

8.8 Documents, including plans, reports, sampling results and other correspondence to be submitted pursuant to this Order, shall be sent by certified or overnight mail to the EPA Project Coordinator designated pursuant to Section IX.

8.9 All reports, plans, approval letters, specifications, schedules and attachments required by this Order are subject to EPA approval and shall be incorporated into this Order upon approval by EPA. In the event that EPA approves a portion of the RAP, report or other item required to be submitted to EPA under this Order, the approved portion shall be enforceable under this Order. In the event of conflict between this Order and any document attached hereto, incorporated in or enforceable hereunder, the provisions of this Order shall control. In the event that EPA disapproves any required submission, EPA will (1) specify the deficiencies in writing and/or (2) may submit its own modifications to the Respondent to accomplish the Work outlined in paragraph 8.3 above. Respondent shall amend and submit to EPA a revised submission that responds to and corrects the specified deficiencies within five (5) business days of receipt of EPA disapproval or such longer time as may be specified by EPA in its discretion. In the event that EPA submits its own modifications to the Respondent, the Respondent is hereby required to incorporate such modifications. Any non-compliance with EPA-approved reports, plans, specifications, schedules or attachments, submission of deficient revisions following EPA disapproval, or non-compliance with an EPA required modification, shall be considered a failure to comply with a requirement of this Order. Determination(s) of non-compliance will be made by EPA.

8.10 In addition to the information and documents otherwise required by this Order, Respondent shall provide to EPA, upon written request, any and all information and documents in its possession, custody or control related to the Site including, but not limited to, Site analytical data (including raw data); Site safety data; Site monitoring data; operational logs; copies of all hazardous waste manifests (including copies of all hazardous waste manifests signed upon receipt of the hazardous wastes by a licensed treatment, storage or disposal facility); the identity

AR100024

of treatment, storage and/or disposal facilities used; the identity of transporters used; the identity of any contractors, subcontractors and supervisory personnel used; information and documents concerning Respondent's compliance with Quality Assurance and Quality Control requirements of this Order; information and documents relating to Respondent's efforts to secure access; and information and documents relating to any project delays. Nothing herein shall be interpreted as limiting the inspection and information-gathering authority of EPA under Federal law.

8.11 Within twenty (20) calendar days of the date Respondent concludes it has completed implementation of the RAP and the items identified in paragraph 8.3, Respondent shall submit a written Final Report to EPA subject to EPA approval described in paragraph 8.9 above. The Final Report shall detail the work undertaken to implement the RAP and the items identified in paragraph 8.3, and shall be certified by Respondent in accordance with the terms of Section XVIII of this Order. EPA will review the adequacy of Respondent's implementation of the RAP and accomplishment of the items specified in paragraph 8.3 above. EPA will notify Respondent, in writing, of any discrepancies in the Final Report or deficiencies in the execution of the RAP and the items identified in paragraph 8.3 and the actions required to correct such discrepancies or deficiencies. Within five (5) business days of receipt of notification by EPA, or as otherwise specified by EPA, Respondent shall, as directed by EPA, amend the Final Report, develop an additional plan or amend the existing RAP to address such deficiencies. Any additional plan or amendment will be subject to the approval procedures outlined in paragraphs 8.5 and 8.9 above. Respondent shall perform all actions approved by EPA in a manner consistent with the NCP and all applicable Federal laws and regulations as required by the NCP.

8.12 Respondent shall not handle or remove any hazardous substances from the Site except in conformance with the terms of this Order and all applicable Federal, State and local laws and regulations, as required by the NCP. Any hazardous substance, pollutant or contaminant transferred for disposal off-site as a result of this Order must be taken to a facility acceptable under EPA's effective Off-Site Policy (58 Fed. Reg. 49200 (September 22, 1993)) in accordance with any rule or regulation promulgated pursuant to Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3).

8.13 Respondent shall not commence any Work except in conformance with the terms of this Order. Respondent shall not commence implementation of the RAP developed hereunder until receiving written EPA approval to proceed pursuant to paragraph 8.6.

AR100025

8.14 Respondent shall immediately notify EPA's Project Coordinator and the National Response Center [(800) 424-8802] and any other party required by law in the event of any action or occurrence during the pendency of this Order which causes or threatens to cause an additional release of hazardous substances, pollutants or contaminants on, at, or from the Site or which may create a danger to public health, welfare or the environment.

8.15 In the event that EPA believes that response actions or other activities at the Site by the Respondent are causing or may cause a release of hazardous substances, or a threat to public health or welfare or the environment, EPA may, in its discretion, immediately halt or modify such response actions or other activities to eliminate or mitigate such releases or threats of release.

#### **IX. DESIGNATED PROJECT COORDINATORS**

9.1 Respondent shall designate a Project Coordinator and shall notify EPA of such designation no later than five (5) business days after the effective date of this Order. Designation of a Project Coordinator shall not relieve Respondent of its obligation to comply with all requirements of this Order. The Respondent's Project Coordinator shall be a technical and/or managerial representative of the Respondent and may be a contractor and/or consultant; provided, however, the Respondent's Project Coordinator shall not be its legal representative in this matter. The Project Coordinator for EPA designated pursuant to this Section and the Project Coordinator for the Respondent shall be responsible for overseeing the Work. To the maximum extent possible, communications between the Respondent and EPA and all documents concerning the activities performed pursuant to the terms and conditions of this Order, including plans, reports, approvals and other correspondence, shall be directed to the Project Coordinators.

9.2 The Project Coordinator for EPA is:

Dave Turner  
Remedial Project Manager  
U.S. Environmental Protection Agency  
Region III  
Western PA Section (3HW23)  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 597-3218

9.3 Respondent shall have the right to change its Project

AR100026

Coordinator. Such a change shall be accomplished by notifying the EPA Project Coordinator in writing at least five (5) calendar days prior to the change.

9.4 EPA shall have the right to change its Project Coordinator at any time without prior notice to Respondent. EPA's intent is to notify the Respondent as soon as practicable following any such change of its Project Coordinator.

9.5 The absence of the EPA Project Coordinator from the Site shall not be cause for the stoppage or delay of Work except when such stoppage or delay is specifically required by EPA.

9.6 The EPA Project Coordinator shall have the authority to halt or modify Work or other activities performed by Respondent at the Site in order to eliminate a release or threat of release of hazardous substances. Such direction by the EPA Project Coordinator may be given verbally or in writing. If such direction is given verbally, the EPA Project Coordinator will later memorialize such direction in writing.

#### **X. QUALITY ASSURANCE**

The Respondent shall use quality assurance, quality control, and chain of custody procedures in accordance with the following documents while conducting all sample collection and analysis activities required by this Order:

(a) "EPA NEIC Policies and Procedures Manual" (EPA Document 330/9-78-001-R (revised November 1984));

(b) "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," (QAMS-005/80 (December 1980)); and

(c) "QA/QC Guidance for Removal Activities," (EPA/540/G-90/004 (April 1990)).

The Respondent shall consult with EPA in planning for, and prior to, all sampling and analysis required by the approved RAP. The Respondent shall use a laboratory(s) which has a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80.

#### **XI. SITE ACCESS**

11.1 As of the effective date of this Order, Respondent shall provide to EPA and its employees, agents, consultants,

AR100027

contractors and other authorized and/or designated representatives, for the purposes of conducting and/or overseeing the Work, access to all property owned or controlled by Respondent wherein Work must be undertaken. Such access shall permit EPA and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct all activities described in paragraph 11.3 of this Order.

11.2 To the extent that property wherein Work must be undertaken is presently owned or controlled by parties other than the Respondent, the Respondent shall use best efforts to obtain Site access agreements from the present owners. Best efforts shall include, but not be limited to, agreement to reasonable conditions for access and/or the payment of reasonable fees. Such access agreements shall be finalized as soon as practicable but no later than twenty-one (21) calendar days after receiving EPA's written approval to proceed. Such agreements shall provide reasonable access for Respondent and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct the Work, and for EPA and its designated representatives to conduct the activities outlined in paragraph 11.3 below. In the event that any property owner refuses to provide such access or access agreements are not obtained within the time designated above, whichever occurs sooner, the Respondent shall notify EPA at that time, in writing, of all efforts to obtain access and the circumstances of the failure to obtain such access. EPA may then take steps to provide such access. Respondent shall reimburse the United States for all costs incurred in obtaining access which are not inconsistent with the NCP.

11.3 In accordance with law and regulation, as appropriate, EPA and its employees, agents, contractors, consultants and other authorized and designated representatives shall have the authority to enter and freely move about the location where the response actions and/or Work is being performed at all reasonable times for the purposes of, inter alia: inspecting Work, records, operating logs and contracts related to the Site; reviewing the progress of the Respondent in carrying out the terms of this Order; conducting such tests as EPA deems necessary; using a camera, sound recording or other documentary type equipment; and verifying the data submitted to EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents and other writings, including all sampling and monitoring data, in any way pertaining to the Work.

11.4 Respondent may make a claim of business confidentiality for information submitted pursuant to this Order in the manner described in 40 C.F.R. § 2.203(b). Such an assertion shall be adequately substantiated in accordance with 40 C.F.R. §

AR100028



2.204(e)(4) at the time the assertion is made. Information subject to a confidentiality claim shall be made available to the public by EPA only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim of business confidentiality accompanies the information when it is submitted or made available to EPA, the submitted information may be made available to the public by EPA without further notice to Respondent. All submitted information, including information claimed as confidential, may be disclosed by EPA to its authorized or designated representatives, pursuant to applicable law and regulation.

11.5 The Respondent may withhold those records and documents covered by any privilege or protection recognized under federal law and applied by federal courts in actions commenced by the United States. In the event that the Respondent withholds a document as privileged, the Respondent shall provide EPA with the title of the document, the date of the document, the name(s) of the author(s), and addressee(s)/recipient(s), a description of the nature of the document and identification of the privilege asserted at the time the document is required to be provided to EPA.

11.6 No claim of confidentiality or privilege shall be made regarding any data required to be submitted pursuant to this Order including, but not limited to, sampling, analytical, monitoring, hydrogeologic, scientific, chemical or engineering data, or documents or information evidencing conditions at or around the Site. Nor shall such claims be made for analytical data; Site safety data; Site monitoring data; operational logs; hazardous waste manifests; identities of treatment, storage and/or disposal facilities used; identities of transporters used, identities of any contractors or subcontractors used in performing work required by this Order.

11.7 Notwithstanding any provision of this Order, EPA retains all of its access and information-gathering authorities and rights under CERCLA and any other applicable statute and regulation.

## **XII. RESERVATION OF RIGHTS**

12.1 Except as expressly provided in this Order, EPA reserves all rights, claims, interests and defenses it may otherwise have, and nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, including the right to seek injunctive relief and/or the imposition of statutory penalties.

AR100029

12.2 As provided by this Order, EPA expressly reserves its right to disapprove of Work performed by Respondent; to halt Work being performed by Respondent if Respondent has not complied with an approved RAP or this Order, or at any time EPA deems necessary to protect public health, welfare or the environment and to perform such Work; to request or require that Respondent perform response actions in addition to those required by this Order. Further, EPA reserves the right to undertake response action at any time EPA deems appropriate. In the event that EPA requires Respondent, and Respondent declines, to correct and/or re-perform work that has been disapproved by EPA and/or to perform response actions in addition to those required by this Order, EPA reserves the right to undertake such actions and seek reimbursement of the costs incurred and/or to seek any other appropriate relief. In addition, EPA reserves the right to undertake removal and/or remedial actions at any time that such actions are appropriate under the NCP and to seek reimbursement for any costs incurred, and/or take any other action authorized by law.

12.3 EPA reserves the right to bring an action against the Respondent for recovery of all recoverable costs incurred by the United States related to this Order which are not reimbursed by the Respondent, as well as any other costs incurred by the United States in connection with response actions conducted at the Site.

12.4 This Order concerns certain response actions (Work described in Section VIII, above) concerning the Site. Such response actions might not fully address all contamination at the Site. Subsequent response actions which may be deemed necessary by EPA are not addressed by this Order. EPA reserves all rights including, without limitation, the right to institute legal action against Respondent and/or any other parties, in connection with the performance of any response actions not addressed by this Order.

12.5 EPA reserves the right to take enforcement actions, including actions for monetary penalties, for any violation of law, regulation, or of this Order. Failure to comply with this Order subjects Respondent to the assessment of civil penalties of up to \$25,000 per day and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure pursuant to Sections 106(b) and 107(c) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c). EPA may also undertake such other actions as it may deem necessary or appropriate for any purpose including, but not limited to, actions pursuant to Sections 104 and/or 106 of CERCLA, 42 U.S.C. §§ 9604 and 9606.

12.6 Nothing in this Order shall limit the authority of the EPA Remedial Project Manager as outlined in the NCP and CERCLA.

AR100030

### **XIII. OTHER CLAIMS**

13.1 Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation not bound by this Order for any liability it may have relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous substances, hazardous wastes, pollutants or contaminants found at, taken to, or taken from the Site.

13.2 This Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

13.3 Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent, or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held out as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

13.4 Nothing herein shall constitute or be construed as a satisfaction or release from liability of Respondent or any other person.

### **XIV. OTHER LAWS**

14.1 All Work shall be undertaken in accordance with the requirements of all applicable and/or relevant and appropriate local, State and Federal laws and regulations, as required by the NCP.

14.2 Nothing herein shall relieve Respondent from any obligations it has under any applicable local, State, or Federal law or regulation.

### **XV. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION**

15.1 The effective date of this Order shall be five (5) business days after it is signed by EPA.

15.2 This Order may be modified or amended by EPA. Such

AR100031

amendments shall be in writing and shall have as their effective date the date on which such amendments are signed by EPA. Modifications to the EPA-approved RAP and its implementation may be made by EPA including by the Project Coordinator. Such modifications shall be memorialized in writing by the Project Coordinator.

15.3 Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon approval by EPA, incorporated into this Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order. Determinations of non-compliance will be made by EPA.

15.4 No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligation to obtain formal approval when required by this Order, and to comply with the requirements of this Order unless formally modified.

#### **XVI. LIABILITY OF THE UNITED STATES GOVERNMENT**

Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent, or of its employees, agents, servants, receivers, successors or assigns, or of any persons including, but not limited to, firms, corporations, subsidiaries, contractors or consultants in carrying out the Work, nor shall the United States Government or any agency thereof be held out as a party to any contract entered into by Respondent in carrying out the Work.

#### **XVII. FAILURE TO PERFORM/PERFORMANCE EVENTS**

17.1 In the event of an inability or anticipated inability on the part of Respondent to perform any of the actions or Work required by this Order in the time and manner required herein, the Respondent's Project Coordinator shall notify EPA orally as soon as possible but no later than within twenty-four (24) hours of the time Respondent becomes aware or should have become aware of such event (or, if the event occurs on a Friday or Saturday, no later than the following Monday) and in writing no later than seven (7) calendar days after Respondent becomes aware or should have become aware of such delay or anticipated delay. Such

AR100032

written notification shall be certified by a responsible official of Respondent in accordance with Section XVIII of this Order and shall describe fully the nature of the delay, including how it may affect the Work, RAP and schedule; the actions that will be or have been taken to mitigate, prevent, and/or minimize further delay; and the timetable according to which future actions to mitigate, prevent and/or minimize the delay will be taken. Such notification shall not relieve Respondent of any obligation of this Order. The Respondent shall adopt all reasonable measures to avoid and minimize such delay.

17.2 Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the unilateral performance of the required actions by EPA pursuant to applicable authorities, an action to recover treble damages pursuant to CERCLA, and/or the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law.

17.3 Nothing in this paragraph or any other provision of this Order shall be construed so as to limit any powers EPA may have under CERCLA, the NCP, or any other law or regulation.

#### **XVIII. CERTIFICATION OF COMPLIANCE**

18.1 (a) Unless otherwise required by the terms of this Order, any notice, report, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this Order shall be certified by the Respondent or a responsible official of the Respondent or by the Project Coordinator for the Respondent. The term "responsible official" means: (i) a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$35 million (in 1987 dollars when the consumer price index was 345.3), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partner or the proprietor, respectively.

(b) The written Final Report required by paragraph 8.11 of this Order, and any written notification described in paragraph

AR100033

17.1 of this Order shall be certified by Respondent or a responsible official of Respondent.

18.2 The certification required by paragraph 18.1 of this Order shall be in the following form:

Except as provided below, I certify that the information contained in or accompanying this (type of submission) is true, accurate, and complete.

As to (the/those) portion(s) of this (type of submission), for which I cannot personally verify (its/their) accuracy, I certify under the penalty of law that this (type of submission) and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name(print): \_\_\_\_\_  
Title: \_\_\_\_\_

18.3 Submission of documents pursuant to this Order which are found by EPA to contain false information shall constitute a failure to comply with this Order and shall subject Respondent to, among other things, penalties whether or not a responsible official of Respondent has certified the document.

#### **XIX. SHIPMENT OF HAZARDOUS SUBSTANCES**

19.1 Respondent shall, prior to any off-site shipment of hazardous substances from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's Project Coordinator of such shipment of hazardous substances. However, the notification to EPA of shipments shall not apply to any such off-site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards. Notifications to States in those circumstances shall be governed by applicable state law.

19.2 The notification required by paragraph 19.1 shall be in writing and shall include the following information, where

available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation of the hazardous substances. Respondent shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state or to a facility in another state.

19.3 The identity of the receiving facility and state will be determined by Respondent unless disapproved by EPA. Respondent shall provide all relevant information, including information required by paragraph 19.1, above, relating to the off-site shipments as soon as practicable but no later than one (1) business day before the hazardous substances are actually shipped.

#### **XX. NOTICE OF INTENT TO COMPLY**

Respondent shall notify EPA's Project Coordinator within three (3) business days after the effective date of this Order of Respondent's intention to comply with the terms of this Order. Failure of Respondent to provide notification to EPA's Project Coordinator of intent to comply within this time period shall be deemed a violation of this Order by Respondent.

#### **XXI. OPPORTUNITY TO CONFER WITH EPA**

Not later than three (3) business days from the effective date of this Order, Respondent may confer with EPA to discuss this Order. Such conference is not an adversarial hearing or part of a proceeding to challenge this Order, and no official stenographic record of such conference shall be kept.

#### **XXII. ADMINISTRATIVE RECORD**

22.1 The Administrative Record upon which this Order is issued is available for review by Respondent's representatives at its request. Requests to review the Administrative Record shall be submitted to the EPA Project Coordinator designated pursuant to Section IX of this Order.

#### **XXIII. RECORD RETENTION**

23.1 Respondent shall preserve all documents and information

AR100035

relating to the Work performed under this Order, or relating to the hazardous substances found at or released from the Site, for six (6) years following completion of the response action required by this Order. In addition, Respondent shall also retain, as appropriate, monthly reports on analytical services pursuant to OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to Potentially Responsible Party-Lead Superfund Sites," (July 6, 1992). At the end of this six year period and thirty (30) days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA.

#### **XXIV. DEFINITIONS**

24.1 "Business days" as used in this Order shall mean every day of the week except Saturdays, Sundays and federal holidays.

24.2 "Calendar days" as used in this Order shall mean every day of the week, including Saturdays, Sundays and federal holidays.

24.3 "Days" as used herein shall mean "calendar days" unless specified otherwise.

24.4 All terms not defined herein shall have the meanings set forth in CERCLA and the NCP.

#### **XIV. NOTICE OF COMPLETION**

When EPA determines, after EPA's review and approval of the Final Report required pursuant to paragraph 8.11 of this Order, that the response action specified in Section VIII of this Order has been fully performed, and upon receipt of penalties hereunder, with the exception of any continuing obligations required by this Order, including those requirements specified in Sections XII ("Reservation of Rights"), XIII ("Other Claims"), XVI ("Liability of the United States"), XXIII ("Record Retention"), EPA will provide a notice of completion to the Respondent.

**IT IS SO ORDERED.**

BY: *Claine B. Wright*

*for* Stanley L. Laskowski  
Acting Regional Administrator  
Region III  
U.S. Environmental Protection  
Agency

DATE: FEB 04 1994

AR100036



FIGURE 1 WESTINGHOUSE SHARON SUPERFUND SITE MAP

